

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTH REGION**

COMCAST CABLE COMMUNICATIONS, INC.¹

Employer

and

Case 7-RC-22248

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO, CLC²

Petitioner

APPEARANCES:

Theodore R. Opperwall, Attorney, of Birmingham, Michigan, for the Employer.
John G. Adam, Attorney, of Southfield, Michigan, for the Petitioner.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, hereinafter referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record³ in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ The Employer's name appears as amended at the hearing.

² The Petitioner's name appears as amended at the hearing.

³ Both parties filed briefs, which were carefully considered. Subsequent to the brief filing deadline, both parties presented additional arguments in support of their respective positions, which are not part of the record herein.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Sections 2(6) and (7) of the Act.

Petitioner seeks to represent approximately 85 full-time and regular part-time communication technicians (comm techs), including quality assurance employees, all levels, employed by the Employer at its Livonia, Michigan facility; but excluding confidential employees, managers, guards, and supervisors as defined by the Act, and all other employees. The Employer contends that the unit should also include 31 employees in the classifications of dispatcher, warehouse employee, construction assistant, fleet facilities coordinator, courier, and converter control employee, who along with the comm techs compose the Technical Operations Group at the Livonia facility. I find that the additional classifications sought to be included by the Employer do not have a sufficient community of interest with the comm techs to require their inclusion into a single unit. Among other factors, comm techs, unlike other employees, have distinct job duties and skills that make them technical employees, and comm techs spend the vast majority of their working day away from the Livonia facility. Also, comm techs are regularly on-call, are generally paid at a higher rate, are separately supervised, and there are few transfers between classifications. Therefore, I find the unit comprised solely of comm techs as sought by the Petitioner to be appropriate.

Overview of Operations

At its various facilities, including the Livonia facility, located at 35155 Industrial Road, Livonia, Michigan, the Employer installs, maintains, monitors, and repairs cable television, high speed internet and telephone systems for various subscribers in approximately 50 municipalities within southeastern Michigan. The Livonia facility services approximately 10 municipalities, including the communities of Plymouth, Canton, Northville, Van Buren, Romulus, Dearborn, Dearborn Heights, Wayne, Westland, and Belleville.

By way of background, while no previous bargaining history exists between the parties at the Livonia facility, the Petitioner has represented various employees at four other Employer locations in Michigan. The history at those facilities, which are located in Detroit, Flint, New Haven, and Taylor, reveals broader units than the Petitioner is currently seeking at the Livonia facility,

containing positions analogous to comm techs as well as dispatchers, warehouse personnel and other classifications.⁴ In the cases of the Detroit, Flint, and Taylor facilities, the Petitioner had sought those broader units.⁵ The New Haven facility was previously organized by a different union, with Petitioner succeeding as the bargaining representative.

The Livonia facility is a two-story structure, with the small second floor housing sales, marketing, and accounting personnel. The first floor of the structure contains the Technical Operation Group with secured warehouse areas, a staging area, a dispatch area, an elevated tool cage area, managers' and supervisors' offices, as well as a break room and rest rooms.

The Employer's organizational structure at the Livonia facility consists of Area Director for Technical Operations Scott Monteith, who oversees the Livonia facility as well as other Employer facilities in the area.⁶ Below Monteith are three technical managers who oversee the day to day operations at the Livonia facility.⁷ Reporting to these managers are eight technical supervisors, two construction supervisors, a dispatch supervisor, and a warehouse supervisor.⁸ Additionally, an administrative assistant reports directly to a manager and takes minutes of managerial meetings and distributes paychecks to employees.⁹

The Employer operates with only one shift, albeit a shift where some employees' start and end times are staggered depending upon their classification. All employees, as well as management personnel, are paid on Fridays every two weeks. All employees, whether inside or outside either the Petitioner's or Employer's proposed unit, including those in sales, accounting and in some instances management personnel, receive the same job applications, are provided

⁴ While Petitioner now represents a broader unit at the Detroit facility, it originally represented, pursuant to a stipulated election agreement, a unit of technicians only, excluding such classifications as dispatchers and warehouse employees, a unit similar to the comm tech only unit it proposes in the instant petition.

⁵ The certification of the Taylor unit was later revoked by the Sixth Circuit Court of Appeals due to objectionable conduct committed during the course of the election campaign.

⁶ The parties stipulated to Monteith's statutory supervisory status.

⁷ The three technical managers are Ed Beltowski, Rob Burton, and Lou Grobbel. Their statutory supervisory status was stipulated to by the parties.

⁸ The eight technical supervisors are Jason Treganowan, Ryan Dunkley, Carl Erickson, Tony Queen, Steve Moskal, Steve Hurlin, Ken McElway, and Mike Dingler. The two construction supervisors are Rick Nelson and Randy Tuttle. The dispatch supervisor is Gail Tubbs. The warehouse supervisor is Phil Hampton. The statutory supervisory status of all 12 was stipulated to by the parties.

⁹ The administrative assistant is Wendy Sobczyk. While the parties did not stipulate to her status as a confidential employee, no party contends she should be included in the petitioned-for unit.

the same employee handbook, receive the same pension and other fringe benefits, are given a 90-day probationary period, have an access card to the entrance of the building, and are overseen by the same human resources administrator. Only those employees specifically sought to be included in the Employer's proposed unit attend a regular Wednesday morning meeting held in the break room to discuss various work related issues, are awarded "employee of the month" honors, and are invited to participate in certain social events organized by the Employer.

Comm Techs

At the Livonia facility, the 85 comm techs report directly to their respective technical supervisors.¹⁰ Comm techs perform technical installation, repair, and related work on the Employer's cable and high-speed modem system. Within the general comm tech group are comm techs who specialize, among other areas, in quality assurance, new construction, and multiple dwelling units, such as apartments. While these comm techs are more specialized, sometimes utilizing different tools, vehicles, and equipment in the performance of their duties, all comm techs perform the same general functions.

Within the entire comm tech group, employees are assigned a numerical grade, ranging between 1 and 6, based upon their acquired skill level. The positional duties increase at each level and range from the performance of routine disconnects under limited supervision for the comm tech 1 level to advanced maintenance and troubleshooting under minimal supervision for the comm tech 6 level. Comm techs acquire the various grades based upon a self-promotion and certification process.¹¹ Essentially, if a comm tech deems himself ready to move to the next level, he may elect to take a written test and a hands-on skill test administered by his direct supervisor, where he demonstrates his ability to perform the necessary tasks to advance to the next grade. Indeed, to even be hired as a comm tech 1, the entry level position, an applicant must pass both a written assessment test and a hands-on field skills assessment test. Comm tech wages range from \$10.75 to \$24.08 an hour, depending on tenure and experience, coupled with an individual comm tech's acquired skill level and an annual review administered by his supervisor. The average comm tech's wage is currently \$14.59 per hour.

Comm techs generally begin their shift at 8:00 a.m., although some have a flexible schedule, allowing them to start an hour earlier or later. At the beginning

¹⁰ One dispatcher and the fleet facility coordinator also report to a technical supervisor.

¹¹ Grade 4 is the highest attained level by a comm tech at the Livonia facility.

of the shift, comm techs receive their route assignments for the day from a dispatcher and then proceed to the warehouse area where a warehouse employee provides them with cable converters, modems, and other necessary parts to complete their assignments. Comm techs “pre-call” customers on their job assignment sheets to assure that the customer will be available for their scheduled appointment. Comm techs then take an Employer provided vehicle, usually a van, and leave the facility to complete their job assignments for the day. Given their daily driving duties, comm techs are required to maintain a valid driver’s license.

For the most part, comm techs work independently, performing their assigned tasks by themselves in customer’s homes. As indicated in their job descriptions, comm techs are required, among other things, to have knowledge of various electric codes, be able to read blue prints, climb poles and roofs, work while standing between 50 to 70 percent of the time, and work near power lines and in confined spaces. Once a job is completed comm techs calls back to the facility via Nextel mobile radios and speak with a dispatcher, providing information necessary for the dispatcher to update that customer’s account information on the Employer’s computer system.

During the course of their work day, comm techs are allotted an hour lunch break, which is usually taken in the field at a time convenient to the individual comm tech. Similarly, any breaks taken by a comm tech are most likely taken in the field as time permits.

After completing their assignments for the day, comm techs return to the facility to turn in paperwork to a dispatcher, and return any unused cable converters, modems, or other equipment to warehouse employees. Comm techs will also take expensive test equipment from their vehicles and store it in their assigned lockers located near the break room at the facility, so as not to risk theft of such equipment while the vehicles are parked outside the facility at night.

Depending on the comm tech’s skill level, their assignment schedule for any given day and other factors, their time spent outside the facility varies. Generally, all comm techs spend roughly 80 percent or more of their day out in the field.

In addition to their regular shift schedule, comm techs are required, on a four-person rotating basis, to be available for on-call duty seven days a week. Comm techs who are on call usually respond to emergency situations, such as cable outages or to fill in for a regularly scheduled comm tech who has called in sick. In on-call emergency situations, telephone calls are routed to an off site call center, which then notifies the comm tech. Comm techs who are assigned on-call

duties for the week are provided \$115 stipend in addition to their regular hourly rate.

Comm techs do not generally temporarily transfer to other hourly positions at the facility. However, on occasion, a comm tech who is on light duty due to an injury will work as a dispatcher, a more sedentary position, until he is recovered and able to assume his former duties. A comm tech with previous dispatching experience may fill in for a dispatcher if there is an unanticipated shortage of dispatchers on a particular day. Theoretically, a comm tech can volunteer to work in the warehouse area as well if that area becomes particularly busy due to a special Employer promotion. Since 1996, seven comm techs have permanently transferred to other positions, with four transferring to dispatcher positions, two transferring to warehouse positions and one transferring to the fleet facilities coordinator position.¹²

Dispatchers

There are 14 dispatchers at the Employer's Livonia facility. Thirteen of them report directly to a dispatch supervisor and one reports to a technical supervisor who also oversees the work of three quality assurance comm techs.¹³ All dispatchers, who are not required to wear anything but street clothes in the performance of their job, work in a designated dispatch area located on the first floor near the main entrance.

Dispatchers typically begin their work day by printing out a list of job assignments for the day, then sorting them by matching the requirements of a particular job with the appropriate skill level of a comm tech. In conjunction with supervisors, they next assign the work to the comm techs. Because they are routing work for comm techs for the day, dispatchers typically arrive earlier than other employees, sometime between 6:00 a.m. and 6:30 a.m.

Throughout their shift, dispatchers regularly receive communication via Nextel radios from comm techs who are out in the field to update them on an assignment and to notify them when a converter box, high-speed modem, or other equipment has been installed at a customer's location, per their job assignment. Once receiving the installation confirmation, the dispatcher goes onto a computer terminal, accesses the customer's account, and activates the equipment installed by

¹² Two of the transfers occurred since 2001, when the Employer purchased the Livonia facility.

¹³ Pam Guyer is the one dispatcher who reports to a technical supervisor, Jason Treganowan. The Employer has implemented this structure because Treganowan is in charge of new product launches and the Employer needed a dispatcher with Guyer's experience to help coordinate those efforts.

the comm tech. Without such activation, the equipment will not work. Due to the necessity of such activation, the Employer requires that a dispatcher be available at all times during a comm tech's shift. During the course of their shift, dispatchers regularly speak with customers regarding appointments and other matters, as well as obtain customer call-in information from the off site call-in center.

In addition to the duties outlined above, dispatchers "trouble shoot" in the sense that they speak with customers who call in to report equipment problems. Typical trouble shooting recommendations to customers consist of simple remedial measures, such as asking the customer whether the television or the converter box is plugged in. If such measures are unsuccessful, the dispatcher will schedule a comm tech for the customer's residence to analyze the problem in person. When a customer cancels service, dispatchers sometimes call the customer ahead of a comm tech's scheduled arrival to ensure that the customer will be home and that the equipment is available for pick up. In the event of disconnection for non-payment, dispatchers occasionally call customers while a comm tech is at the house and notify the customer that a representative is at the door to retrieve a converter box or modem.

During the course of their day, dispatchers are provided similar breaks to those given to comm techs and other employees. However, because their duties are performed almost exclusively at the Employer's facility and are not dependent on the exigencies of customer service, dispatchers have break times that are more regularly scheduled.

While their jobs are mostly sedentary, the Employer occasionally sends dispatchers out into the field with comm techs for training purposes, essentially to give them clear perspective on a comm tech's day-to-day duties. However, dispatchers spend two percent or less of their time out in the field. The Employer does not require dispatchers to maintain a valid driver's license.

One dispatcher is required to be on call for one week on a rotating basis.¹⁴ On-call dispatchers are called into work in the rare event of an inordinately high number of regularly scheduled dispatchers being absent, or to help out in emergency situations, such as those occurring as a result of downed lines due to storm damage. For routine absenteeism, in lieu of calling in the on-call dispatcher, supervisory personnel will fill in for a missing dispatcher.

A dispatcher's salary ranges from \$11.23 to \$17.28 per hour, with the

¹⁴ The on-call dispatcher is provided with a \$115 stipend, in addition to a regular hourly wage.

average rate being \$13.75 per hour. Salary increases are provided pursuant to a merit based annual review. Unlike comm techs, there are no grade levels and no initial certification process, although the Employer has indicated that it intends to implement such a certification process for dispatchers and other employees in the future.

Warehouse Employees

There are 12 warehouse employees at the Livonia facility, reporting directly to Warehouse Supervisor Phil Hampton. Warehouse employees, who usually begin their shift between 5:00 a.m. and 6:00 a.m., wear uniforms identical to those worn by comm techs. Working at a large bench near the converter staging area, warehouse employees begin their shift by taking the day's work orders and related documents generated by the dispatchers, retrieving the necessary equipment needed to complete those work orders, and placing the retrieved equipment in a bin adjoining the loading area. The comm techs drive trucks into the loading area, retrieve the equipment, and leave the facility to begin their daily assignments. Because warehouse employees are not provided Nextel radios, they do not regularly communicate with comm techs once they have left the facility. During the day, warehouse employees share two common desks used to fill out various inventory related paperwork and they also share access to a single computer terminal where they keep track of equipment and parts inventory levels. Warehouse employees also use the terminal to access customers' accounts to assign and retrieve converter boxes. As part of their inventory responsibilities, warehouse employees are the only non-managerial employees to have a key to the tool cage and regular access to the enclosed warehouse area; comm techs and other employees are not allowed into that area without specific authorization.

While theoretically possible, there has been no specific occasion where a comm tech has performed regular warehouse employee duties on a temporary or fill-in basis. Conversely, there has been no instance of a warehouse employee performing comm tech duties, either on a temporary or permanent basis.

At the end of their shift, comm techs return to the Livonia facility's loading area and return any unused equipment to the warehouse employees. At that time, comm techs may also provide warehouse personnel with a standard requisition form if they are short of basic supplies, such as splitters, U-clamps, or ground rods. Because a warehouse employee must be at the facility to check in the last regularly scheduled comm tech, occasionally a warehouse employee works well into the evening.

Unlike comm techs, warehouse employees are able to take more regularly

scheduled breaks. However, while some warehouse employees rarely go out into the field, such as those who work the receiving desk, others can spend 70 percent of their time away from the facility, loading equipment and parts in the staging area and driving them to other Employer locations. These driving responsibilities are strictly between Employer facilities and do not typically include bringing parts or equipment to a comm tech at a customer's house. Warehouse employees rarely, if ever, interact with customers. Despite the driving duties of some warehouse employees, their job description does not require a valid driver's license.

Warehouse employees' wages range from \$11.16 to \$16.08 an hour with the average wage currently at \$12.95 per hour. Wage increases are dependent upon a merit based annual review. As with the dispatch department, there is currently no grade level advancement or initial certification process for warehouse employees.

Fleet Facility Coordinator

The fleet facility coordinator position is a one employee classification which is vacant at the present time. The fleet facility coordinator, who reports to a technical supervisor, is primarily responsible for the oversight and care of the Employer's fleet of approximately 150 vehicles, ensuring that they receive regularly scheduled maintenance and are provided with current title and registration documents. In the event of a vehicle breakdown, which he is made aware of either through inspection or through a service report initiated by the driver of the vehicle, the fleet facility coordinator will make small vehicle repairs himself, such as replacing a tail light and windshield wipers, adding washer fluid, and performing other minor tasks. For more extensive repairs, the fleet facility coordinator will arrange for repair with outside contractors. He also ensures that the drivers of the vehicles, the vast majority of them comm techs, are provided gas cards, necessary vehicle equipment, and driving safety information. The fleet facility coordinator spends approximately 40 percent of his time outside the facility performing his duties.

Courier

The courier position is a one person classification currently held by Gary Burr, who reports directly to Warehouse Supervisor Phil Hampton. His duties include the transporting of parts, equipment, mail, videotapes, and training material from one Employer facility to another. Occupied almost exclusively with intra-company deliveries, Burr rarely, if ever, brings parts or equipment to a comm tech who is working out in the field. Burr, who wears an Employer furnished uniform, spends approximately 90 percent of his time away from the Livonia

facility performing his duties. Given the nature of the position, couriers are required to have a valid driver's license and a good driving record.

Converter Control Employees

There are two converter control employees at the Livonia facility, Rick Parisse, who is a converter control coordinator and Bill Larry, who is a lead converter technician. These employees, who report directly to Warehouse Supervisor Phil Hampton, are primarily responsible for the oversight of converter control boxes, which have a value of approximately \$500 each. In overseeing these boxes, converter control employees are responsible for issuing the boxes to and retrieving the boxes from personnel within the facility. They also test, modify, and troubleshoot the boxes, as necessary. Occasionally, when troubleshooting, they will assist other employees, including warehouse employees and comm techs, in determining the causes of converter box problems. Parisse and Larry, who wear Employer provided uniforms in the performance of their jobs, spend approximately 90 percent of their time at the Livonia facility. During particularly busy periods, such as when the Employer offers its customers special promotional discounts on converter boxes, other classifications, such as warehouse employees, dispatchers, and comm techs, may assist converter control employees in their jobs.

Construction Assistant

The construction assistant, Lynn Bender, reports directly to Rob Burton, a technical manager. Her job encompasses the review and writing of intra-company documents related to the internal authorization of new projects. Additionally, once a project has been authorized, she acquires any new tool that may be required for the completion of that particular job, reviews invoices from outside contractors to verify work has been performed, and generally coordinates with management and any comm tech involved in a particular project. While the position requires a valid driver's license, she only occasionally goes out into the field to inspect current or proposed projects or meet with contractors. Overall, she spends between 85 to 90 percent of her time at the Livonia facility.

Analysis

The requirement that a unit be an appropriate one, and not the most appropriate, is well established and has been applied to the cable television industry. *Harron Communications*, 308 NLRB 62, 63 (1992); *Cablevision Systems Development Co.*, 251 NLRB 1319, 1323 (1980). A union is, therefore,

not required to seek representation in the most comprehensive grouping of employees unless “an appropriate unit compatible with that requested does not exist.” *P. Ballantine & Sons*, 141 NLRB 1103 (1963). The determining factor in finding an appropriate unit is the community of interests of the employees involved. When the interests of one group are dissimilar to those of another group, a single unit of those groupings is not appropriate. *Swift & Co.*, 129 NLRB 1391 (1961).

Where a petitioned-for bargaining unit limited to technical employees, the Board has customarily found such units to be appropriate since technical employees tend to share distinctive training and functions. *Vickers, Inc.*, 124 NLRB 1051, 1053 (1959); *United Shoe Machinery Corp.*, 185 NLRB 200 (1970); *Harron Communications*, supra. In order to insist on an alternative unit, an employer must first prove that the petitioned-for unit of technical employees is an inappropriate unit based on their strong community of interests with other employees. In the broadcast industry, like the cable television industry, the Board has commonly found units in distinct aspects of the operation to be appropriate based on community of interest factors such as degree of skill and common functions, performance of similar tasks, lack of significant interchange, transfer or close work contact with other employee groupings, and separate supervision. *Cablevision Systems Development Co.*, supra; *Evans Broadcasting Corp.*, 179 NLRB 781 (1969) (technicians); *WTAR Radio-TV Corp.*, 168 NLRB 976 (1968); *WTVJ, Inc.*, 120 NLRB 1180 (1958) (production); *WTTV*, 115 NLRB 535 (1956) (technicians and engineers); *Neptune Broadcasting Co.*, 94 NLRB 1052 (1951).

As an initial matter, I agree with the position taken by both the Petitioner and the Employer, and as supported by Board law, that comm techs are technical employees based on the technical nature of their work involving the use of independent judgment with “limited” or “minimal” supervision. See *Continental Cablevision*, 298 NLRB 973 (1990); *Storer Communications*, 297 NLRB 296 (1989). In contrast, none of the other classifications in the Technical Operations Group are subject to a certification process or require the testing of skills and abilities as a precondition to moving up a precisely described grade scale. While the Employer has announced an intention to implement such a system for other classifications, such intentions are essentially speculative at this point. None of the classifications sought to be included by the Employer perform duties of a technical nature as do the comm techs. Dispatchers serve a role similar to the customer service representatives in *Harron Communications*, supra, which is based more on the use of computers to activate cable service and attending to customer relations. Although converter control employees as part of their duties troubleshoot problems with converter boxes, they do not otherwise satisfy the requirements to be found technical employees. *Audiovox Communications*

Corp., 323 NLRB 647 (1997) (cellular phone technicians who diagnose phone problems not found to be technical employees).

In analyzing all the factors considered by the Board in determining the appropriateness of a proposed unit, the comm techs herein have a community of interest sufficiently distinct from other employees to warrant a separate comm tech only unit. Comm techs, unlike the vast majority of other employees at the Livonia facility, spend the vast majority of their time in the field servicing customers. Other than comm techs, the only other employees who leave the facility in the performance of their day-to-day duties do so for wholly different reasons than customer service field work. A few warehouse employees and the courier shuttle equipment and materials between Employer facilities, and the fleet facility coordinator is away from the facility for vehicle servicing purposes. The fact that comm techs and other classifications that leave the facility during the work day wear identical uniforms is not a sufficient basis to conclude that only a wall-to-wall unit is appropriate.

Once hired, comm techs work schedules differ significantly from other classifications, starting approximately two hours later than dispatchers or warehouse employees. Further, comm techs must share on-call duties on a rotating basis in cases of system problems, which happen with some regularity. Conversely, while one dispatcher is on call at all times, it is predominantly for reasons related to absenteeism and such call-ins are extremely rare.

Comm techs are also distinct with regard to pay rates and supervision. The maximum rate available to a comm tech is approximately \$7.00 an hour more than either dispatchers and warehouse employees, and the current average rate is about \$1.00 an hour higher than dispatchers and approximately \$2.00 an hour higher than warehouse employees. With respect to supervision, all comm techs report to technical supervisors, who, except for one specialized dispatcher whose duties revolve around the implementation of new products and an unfilled fleet facility coordinator position, direct, assess and generally oversee the work of only comm techs. *Audiovox Communications*, supra (noting the significance of separate supervision in determining the appropriateness of a unit).

Temporary transfers by comm tech employees to other classifications is rare and due to instances of comm techs temporarily moving to dispatcher positions due to injury. Only seven comm techs have transferred to other classification since 1996, an extremely low figure given that number of comm techs at the facility. Moreover, no dispatcher, warehouse employee, or other classifications sought to be included by the Employer transferred into the comm tech position during that same time period. Such a minimal number of transfers is insignificant and certainly does not require a unit broader than comm techs. *Macy's West, Inc.*, 327 NLRB1222 (1999). Other than the uncommon

occurrence of a comm tech moving to a dispatcher position while recuperating from an injury, temporary transfers of comm techs to other classifications due to personnel shortages, increased workload in a particular department, or for any other reason, are rare.

Although centralized administration and common benefits and personnel policies may well support a finding that a broader unit, if sought, also would be an appropriate unit, it is the Employer's burden to establish that the petitioned-for unit is inappropriate. *Omni International Hotel*, 283 NLRB 475, 476 (1987). Similarities in benefits of those employees within the Employer's proposed broader unit are substantially outweighed by the factors that show comm techs have a distinct community of interest. *Home Depot USA*, 331 NLRB 1289 (2000).

Although there is no bargaining history at the Livonia facility, the Petitioner does represent broader units at the Employer's other facilities. However, in each of those cases, the broader units were sought by the Petitioner or its predecessor and thus are not determinative as to the appropriateness of a narrower technical unit.

Consequently, given comm techs' materially different duties and skills, their minimal interaction with other classifications and substantially different terms and conditions of employment, they comprise a well defined administrative segment of the Employer's organization.

5. In view of the foregoing, and the record as a whole, I find the following unit appropriate:

All full time and regular part-time communication technicians, including quality assurance employees, all levels, employed by the Employer at its Livonia, Michigan facility; but excluding confidential employees, managers, guards, and supervisors as defined by the Act.

Those eligible shall vote as provided in the attached Direction of Election.

Dated at Detroit, Michigan, this 16th day of July, 2002.

(SEAL)

/s/ William C. Schaub, Jr.
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